

1 Keith E. Rodenhuis, Esq. (SB# 254465)  
Email: Keith@KERLegalGroup.com  
2 Rodger S. Greiner, Esq. (SB# 144123)  
3 Email: Rodger@KERLegalGroup.com

4 KER LEGAL GROUP  
5 2601 Main Street, Suite 560  
6 Irvine, CA 92614  
7 Ph: (949) 252-9937  
8 Fx: (888) 292-4576

9 Attorney for Defendant,  
10 City of Newport Beach

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 YAXIAN FAN

14 Plaintiff,

15 vs.

16 CITY OF NEWPORT BEACH; and  
17 KEITH E. RODENHUIS,

18 Defendants.  
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20  
21

Case No.: 8:22-CV-02178-FWS-(DFMx)

**DEFENDANT CITY OF NEWPORT  
BEACH'S PROPOSED FINDINGS OF  
FACT AND CONCLUSIONS OF LAW**

**FINAL PRETRIAL CONF.:** May 16, 2024

**TRIAL DATE:** May 28, 2024

**TIME:** 8:30 a.m.

**JUDGE:** Hon. Fred W. Slaughter

**DEPT.:** 10D

22 **PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 **FINDING OF FACTS**

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25 1. Defendant City of Newport Beach's Motion for Summary Judgment was  
26 granted in *Fan v City of Newport Beach*, Orange County Superior Court, Case No. 30-  
27 2019-01072057-CU-PO-CJC and Judgment was entered on March 3, 2021.  
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1           2.     The California Court of Appeal, Fourth Appellate District, Division Three,  
2 issued an Opinion dismissing Plaintiff's appeal of the Judgment entered in *Fan v City of*  
3 *Newport Beach*, Orange County Superior Court, Case No. 30-2019-01072057-CU-PO-  
4 CJC, Appellate Case No. G060429, filed on August 23, 2022.

5           3.     The California Supreme Court filed a denial of Plaintiff's petition for  
6 review, Case No. S276715, on November 9, 2022.

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8           **CONCLUSIONS OF LAW**

9           1.     Plaintiff's 42 U.S.C. §1983 claim against Defendant City of Newport is  
10 barred by the *Noerr-Pennington* doctrine. *B&G Foods N. Am., Inc. v. Embry*, 29 F.4th  
11 527, 532 n.1 (9th Cir. 2022); *Kearney v. Foley & Lardner, LLP*, 590 F.3d 638, 645 (9th  
12 Cir. 2009))

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15           Executed this 25th day of April 2024.

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18           By:   
19           Keith E. Rodenhuis, Esq.  
20           Attorney for Defendant,  
21           City of Newport Beach  
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